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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

EARL DWAYNE LYNN,

Defendant and Appellant.

F037978

(Super. Ct. No. 81841)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Clarence Westra, Judge.

William M. Duncan, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Jo Graves, Assistant Attorney General, John G. McLean and Stan Cross, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Dibiaso, Acting P.J., Harris, J. and Cornell, J.

INTRODUCTION

Appellant Earl Dwayne Lynn was convicted by a jury of a violation of Vehicle Code section 10851, subdivision (a), unlawfully taking and driving a vehicle. In a court trial, it was found true *inter alia* that Lynn previously had suffered a prior conviction for a violation of Vehicle Code section 10851. At sentencing, the trial court imposed a term of four years for the current offense.

Lynn contends the trial court imposed an unauthorized sentence because Penal Code section 18 specifies a maximum three-year term. We conclude the sentence is not unauthorized and affirm.

DISCUSSION

Penal Code section 18 provides that except where a different punishment is prescribed by statute, every felony is punishable by imprisonment for a term of sixteen months, two years, or three years. However, in the case of violations of Vehicle Code section 10851, the statute does specify a different punishment.

Subsection (e) of Vehicle Code section 10851 specifies that when a defendant “has been convicted of one or more previous felony violations of this section,” the punishment for the current conviction under this section shall be that set forth in Penal Code section 666.5. Penal Code section 666.5, subdivision (a), specifies a term of imprisonment of two, three, or four years shall be imposed.

Lynn was previously convicted of a violation of Vehicle Code section 10851 and thus subsection (e) of that code section applies to him. With respect to the current offense, the trial court found circumstances in aggravation and imposed the upper term of four years in conformance with Penal Code section 666.5 for the current Vehicle Code section 10851 violation. Therefore, the sentence was not unauthorized.

DISPOSITION

The judgment and sentence are affirmed.